



US Army Corps
of Engineers

Regulatory Branch
333 Market Street
San Francisco, CA 94105-2197

SAN FRANCISCO DISTRICT

PUBLIC NOTICE

FILE NUMBER: 28147N

DATE: October 23, 2003

RESPONSE REQUIRED BY: November 23, 2003

PERMIT MANAGER: Bryan Matsumoto

PHONE: 415-977-8476

Email: bryan.t.matsumoto@spd.usace.army.mil

1. INTRODUCTION: Mr. Curt Blomstrand (Benicia Associates, LP; 3675 Mt. Diablo Boulevard, Suite 350, Lafayette, California 94549, (925) 283-8470)) has applied for a Department of the Army individual permit, through his agent Sycamore Associates LLC (POC: Whitney Knueppel; (925) 279-0580), to stabilize approximately 537 lineal feet of bank along the Carquinez Strait, install an outfall for a water quality structure, and culvert a storm gutter system on a 1.5 acre project site located at 174 through 178 West F Street in the City of Benicia, Solano County, California (APN 089-173-140) (Enclosure 1). This project will cause the permanent loss of 0.01 acres of salt marsh, and will reposition, replace, and install new riprap along 537 lineal feet (0.24 acres) of other waters of the U.S. The duration of authorization would be for 5 years from the date of permit issuance. This application is being processed pursuant to the provisions of Section 404 of the Clean Water Act (33 U.S.C. 1344) and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

2. PROJECT DESCRIPTION: As shown in the attached drawings (Enclosure 2, 3, and 4), the applicant proposes to stabilize a section of bank between West E Street and West F Street. Approximately 537 lineal feet of bank will be stabilized. Existing riprap will be repositioned and new riprap will be installed (approximately 1,004 cubic yards of new riprap). Using a tracked excavator, a toe trench will be dug from the shore. The trench will extend approximately 5 feet and be excavated 4.9 feet deep (718 cubic yards of material replaced with riprap), and will be located within the

toe of existing rock riprap. Once the trench is created, filter fabric will be hand placed, forming a "Dutch toe", prior to the placement of rock in the trench by the excavator. In addition, a small area near the shore will be graded, at varying slopes, to increase stability. Rock bedding (3/4" drain rock) will be laid in these locations, and in the trench to a height of 1 foot. Drain rock will also be placed between existing riprap that was not removed for grading. Half-ton riprap will then be placed on top of the rock bedding to a height of 4 feet.

Additional work proposed within Corps jurisdiction includes installation of a 24" culvert for a water quality unit, a 24" culvert to replace a gutter system, and removal of an existing pier on the project site. The boardwalk planks for the pier will be removed, and the piles for the pier will be removed pending San Francisco Bay Conservation and Development Commission (BCDC) authorization.

3. SITE DESCRIPTION: The parcel is relatively flat, and is located on the northern shore of the Carquinez Strait, between West E Street and West F Street. This section of bank along Carquinez Strait contains 0.01 acres of salt marsh habitat. The site is partially developed consisting of an existing apartment building in the northern portion, associated outbuildings, gardens and gravel roads, fishing pier, and open space.

4. PROJECT PURPOSE: The project purpose is to construct 11 single-family residences within Solano County.

5. STATE APPROVALS: Under Section 401 of the Clean Water Act (33 U.S.C. Section 1341), an applicant for a Corps permit must obtain a State water quality certification or waiver before a Corps permit may be issued. The applicant has provided the Corps with evidence that he has submitted a valid request for State water quality certification to the San Francisco Bay Regional Water Quality Board. No Corps permit will be granted until the applicant obtains the required certification or waiver. A will be deemed to have occurred if the State fails or refuses to act on a valid request for certification within 60 days after the receipt of a valid request, unless the District Engineer determines a shorter or longer period is reasonable for the State to act.

Those parties concerned with any water quality issues that may be associated with this project should write to the Executive Officer, California Regional Water Quality Control Board, San Francisco Bay Region, 1515 Clay Street, Suite 1400, Oakland, California 94612, by the close of the comment period of this public notice.

6. COMPLIANCE WITH VARIOUS FEDERAL LAWS:

National Environmental Policy Act of 1969 (NEPA): At the conclusion of the public comment period, the USACE will assess the environmental impacts of the project in accordance with the requirements of the National Environmental Policy Act of 1969 (Public Law 91-190), the Council on Environmental Quality's Regulations at 40 CFR 1500-1508, and USACE Regulations at 33 CFR 325. The final NEPA analysis will normally address the direct, indirect, and cumulative impacts that result from regulated activities within the jurisdiction of the USACE and other non-regulated activities the USACE determines to be within its purview of Federal control and responsibility to justify an expanded scope of analysis for NEPA purposes. The final NEPA analysis will be incorporated in the decision documentation that

provides the rationale for issuing or denying a Department of the Army Permit for the project.

Endangered Species Act of 1973 (ESA): The applicant's agent, Sycamore Associates LLC, conducted a search, using the California Natural Diversity Data Base (CNDDDB), to determine the potential for the project site to support federally listed threatened or endangered species. Searches were initiated for the Benicia U.S.G.S. quadrangle maps, which encompass the project site, and eight adjacent quadrangles surrounding area (Cuttings Wharf, Cordelia, Fairfield, Mare Island, Vine Hill, Richmond, Briones Valley, and Walnut Creek). Eleven threatened or endangered species were found to occur within the quads: endangered California red-legged frog (*Rana aurora draytonii*), threatened delta smelt (*Hypomesus transpacificus*), threatened Central Valley steelhead (*Oncorhynchus mykiss*), threatened Central California Coast steelhead (*Oncorhynchus mykiss*), threatened Central Valley spring-run Chinook (*Oncorhynchus tshawytscha*), endangered Sacramento River winter-run Chinook (*Oncorhynchus tshawytscha*), threatened Western snowy plover (*Charadrius alexandrinus*), endangered California brown pelican (*Pelecanus occidentalis californicus*), endangered California clapper rail (*Rallus longirostris obsoletus*), and endangered Salt marsh harvest mouse (*Reithrodontomys raviventris*).

Based on Sycamore Associates survey and the absence of suitable habitat, the USACE has made a preliminary determination that the project will not affect endangered California red-legged frog (*Rana aurora draytonii*), threatened Western snowy plover (*Charadrius alexandrinus*), endangered California brown pelican (*Pelecanus occidentalis californicus*), endangered California clapper rail (*Rallus longirostris obsoletus*), or endangered Salt marsh harvest mouse (*Reithrodontomys raviventris*) due to the lack of suitable habitat on the project site. However, the project may affect, but is not likely to adversely affect, threatened delta smelt (*Hypomesus*

transpacificus), threatened Central Valley steelhead (*Oncorhynchus mykiss*), threatened Central California Coast steelhead (*Oncorhynchus mykiss*), threatened Central Valley spring-run Chinook (*Oncorhynchus tshawytscha*), and endangered Sacramento River winter-run Chinook (*Oncorhynchus tshawytscha*), thus the USACE will initiate informal consultation with U.S. Fish and Wildlife Service/National Marine Fisheries Service, pursuant to Section 7(a) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.). The consultation process must be concluded prior to the issuance of any Department of the Army Permit for the project.

Magnuson-Stevens Fishery Conservation and Management Act of 1996 (MSFCMA): The aforementioned Section 7 consultation process will also address project-related impacts to essential fish habitat.

National Historic Preservation Act of 1966 (NHPA): A Corps of Engineers archaeologist is currently conducting a cultural resources assessment of the permit area, involving review of published and unpublished data on file with city, State, and Federal agencies. If, based upon assessment results, a field investigation of the permit area is warranted, and cultural properties listed or eligible for listing on the National Register of Historic Places are identified during the inspection, the Corps of Engineers will coordinate with the State Historic Preservation Officer to take into account any project effects on such properties.

7. COMPLIANCE WITH THE 404(b)(1) GUIDELINES: Projects resulting in dredged or fill material discharges into waters of the United States must comply with the Guidelines promulgated by the Administrator of the Environmental Protection Agency under Section 404(b) of the Clean Water Act (33 U.S.C. 1344(b)). An evaluation pursuant to the Guidelines indicates the project is dependent on location in or proximity to waters of the United

States to achieve the basic project purpose. This conclusion raises the (rebuttable) presumption of the availability of a practicable alternative to the project-related discharges into waters of the United States that would result in less adverse impact to the aquatic ecosystem, while not causing other major adverse environmental consequences. The applicant is in the process of submitting an analysis of project alternatives to be reviewed for compliance with the Guidelines.

8. PUBLIC INTEREST EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity and its intended use on the public interest. Evaluation of the probable impacts that the proposed activity may have on the public interest requires a careful weighing of all those factors, which become relevant in each particular case. The benefits that reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. The decision whether to authorize a proposal, and if so the conditions under which it will be allowed to occur, are therefore determined by the outcome of the general balancing process. That decision will reflect the national concern for both protection and utilization of important resources. All factors that may be relevant to the proposal must be considered including the cumulative effects thereof. Among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

9. CONSIDERATION OF COMMENTS: The Corps of Engineers is soliciting comments from the public, Federal, State and local agencies and officials, Indian Tribes, and other interested parties in order to

consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

10. SUBMISSION OF COMMENTS: Interested parties may submit in writing any comments concerning this activity. Comments should include the applicant's name, the number, and the date of this notice and should be forwarded so as to reach this office within the comment period specified on page one of this notice. Comments should be sent to the Regulatory Branch. It is Corps policy to forward any such comments that include objections to the applicant for resolution or rebuttal. Any person may also request, in writing, within the comment period of this notice that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Additional details may be obtained by contacting the applicant whose address is indicated in the first paragraph of this notice, or by contacting Bryan Matsumoto of our office at telephone 415-977-8476 or E-mail: bmatsumoto@spd.usace.army.mil. Details on any changes of a minor nature which are made in the final permit action will be provided on request.